

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

February 17, 2005

A meeting of the Board of Environmental Protection was held on Thursday, February 17, 2005, at the Civic Center in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler

Absent: Virginia Plummer

Staff: Bureau of Land and Water Quality

Dana P. Murch

Others: David Littell, Deputy Commissioner
Dennis Harnish, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 1:00? p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: David Littell, Deputy Commissioner reported the following:

S.D. Warren vs BEP: Assistant Attorney Carol Blasi recently defended the Board's decision regarding the 401 Water Quality Certification for the S.D. Warren Presumpscot River dams. The Law Court upheld the Board's findings and conclusions. The decision will be helpful in defending against other challenges related to the Department's and the Board's interpretation of 401 Water Quality Certification requirements for hydropower projects.

Air Toxics: A recent article published by the National Institute of Environmental Health draws a link between chromosome damage in fetuses and increased air pollution from auto emissions and other air borne pollutants. The studies show that increased exposure to air pollution is directly linked to fetal abnormalities confirming that air toxics are a significant public health concern.

Budget : The Legislature conducted hearings on the Department's Part 1 budget, which includes the proposed 1.1 million dollar reduction and associated program cuts. In its proposed reductions, the Department has sought to maintain core programs and services to the public.

Bond: The Governor has proposed a \$197-million dollar bond package. The portion of this package related to the Department programs is 11 -million dollars including: [a] \$6.6 million for wastewater and state revolving loan (*match 13-million dollar from federal funds*); [b] just under 3 -million for uncontrolled hazardous sites and landfill remediation; [c] \$1 million for chemical clean out of schools; and [d] \$300,000 for municipalities to assist with the cost of implementation of new storm water requirements, and for maintenance of air quality monitoring equipment.

Legislative: The Department has introduced 12 bills that are before the Legislature. A bill addressing vernal pools is under consideration. Vernal pools are freshwater wetlands that are not connected to rivers/streams that provide habitat vital to the survival of many species of amphibians. The Department of Inland Fish & Wildlife was supposed to map these areas but never did so. Today's science has advanced to the point where we can hire private scientists to map the pools for future regulation similar to wetlands.

Mercury Briefing: Deputy Commissioner offered to provide a briefing by the Department on its report to the Natural Resources Committee about mercury. Ginger Jordan-Hillier, from the Commissioner's Office, would be making the presentation. [Board members expressed an interest in the briefing.]

Questions:

In response to the Chair's announcement, Board member Nancy Anderson asked about the status on new appointments to the Board.

Mr. Littell responded that the Governor's Office is currently reviewing applications and is expecting to announce a candidate for consideration soon.

B. CHAIRMAN'S COMMENTS:

Chairman Wardwell announced that he has accepted a full-time position as an Administrative Judge with the National Nuclear Regulatory Commission in Washington D.C. and will be resigning from the Board of Environmental Protection. The appointment begins on May 2nd, but Chairman Wardwell explained that he intends to complete the boat ramp project at Mere Point.

- | | |
|---------------------------------------|-------------------|
| C. EXECUTIVE ANALYST COMMENTS: | Nothing to Report |
| D. BOARD CALENDAR: | Reviewed |
| E. DEPARTMENTAL ORDERS: | Reviewed |
| F. EXECUTIVE SESSION: | None |

II CONSENT AGENDA ITEMS

The Board voted (7-0-0-2) on a motion to approve as presented consent agenda item(s) 1, 2, 3, and 4.

Board members Nancy Anderson, Donald Guimond, Ernest Hilton, Matt Scott, Richard Wardwell, Jean T. Wilkinson, and Nancy Ziegler voted to support the motion. Board members Irving Faunce and Virginia Plummer were absent.

1. FREDERICK UCCELLINI and EMMA UCCELLINI, Shapleigh – Administrative Consent Agreement (BLWQ – Land)
2. PATRICIA F. CLANCEY REVOCABLE TRUST, Wells – Administrative Consent Agreement (BLWQ – Land)
3. STEPHEN M. LIBBY, South Berwick – Administrative Consent Agreement (BLWQ – Land)
4. DEBORA JORDAN, Eliot - Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

III. Regular Agenda

1. FPL ENERGY MAINE HYDRO LLC / FORT HALIFAX DAM REMOVAL (appeal by Save Our Sebasticook, et al.)

Staff: Dana Murch, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to deny the request for a public hearing and deny the appeal by Save Our Sebasticook and affirm the Commissioner's decision and findings of fact as set forth in Order L-21060-34-B-N. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and 06-096 CMR Chapter 2.

Board members Nancy Anderson, Ernest Hilton, Don Guimond, Irving Faunce, Matt Scott, Richard Wardwell, Jean T. Wikinson, and Nancy Ziegler supported the motion. Board member Virginia Plummer was absent.